## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:18 CV 110

KEVIN C. CLARK,	)	
Plaintiff,	)	ODDED
v.	)	ORDER
ASHEVILLE FORD, LLC, et al.,	)	
Defendants.	)	

This matter is before the Court upon Plaintiff's Motion to Compel (Doc. 14) and Plaintiff's Motion to Waive the Requirement to Request a Conference with the Magistrate Judge Under Rule 16(b)(3)(B)(v), Fed. R. Civ. Pro., and the Scheduling Order, or in the Alternative, to Allow Plaintiff to Withdraw his Motion to Compel Discovery, in Order to Comply with Rule 16(b)(3)(B)(v), and the Scheduling Order (Rule 16(b)(4), Fed. R. Civ. P.) (Doc. 19).

The Pretrial Order and Case Management Plan requires that "a party shall, before filing a disputed motion for an order relating to discovery, request a conference with the magistrate judge. Only when that request is denied or an impasse is reached at the conference may the party file a disputed motion for an order relating to discovery. Such conferences may be conducted in chambers or by conference call and need not be recorded, all in the discretion of the magistrate judge." See (Doc. 10) at 4.

The parties appear to have been working in good faith to resolve their discovery disputes, even to the point that, as Plaintiff reports, those disputes have been narrowed to the matters at issue in the pending Motion to Compel. (Doc. 19 at 2). Such efforts, though, even coupled with the inadvertent overlooking of the conference requirement prior to the filing of the Motion to Compel,

do not justify a retroactive waiver of this express provision of the Pretrial Order. More practically, it is not apparent to the undersigned that a conference would be unhelpful or unproductive, notwithstanding the completed briefing of the Motion to Compel.

IT IS THEREFORE ORDERED that Plaintiff's Motion (Doc. 19) requesting waiver of a discovery conference is **DENIED**. The Court will conduct a discovery conference by conference call on Tuesday, November 27, 2018 at 2:00 p.m. Counsel will receive dial-in instructions in advance.

IT IS FURTHER ORDERED that a ruling on Plaintiff's Motion to Compel (Doc. 14) is hereby **DEFERRED** pending completion of the discovery conference.

Signed: November 16, 2018

W. Carleton Metcalf

United States Magistrate Judge